

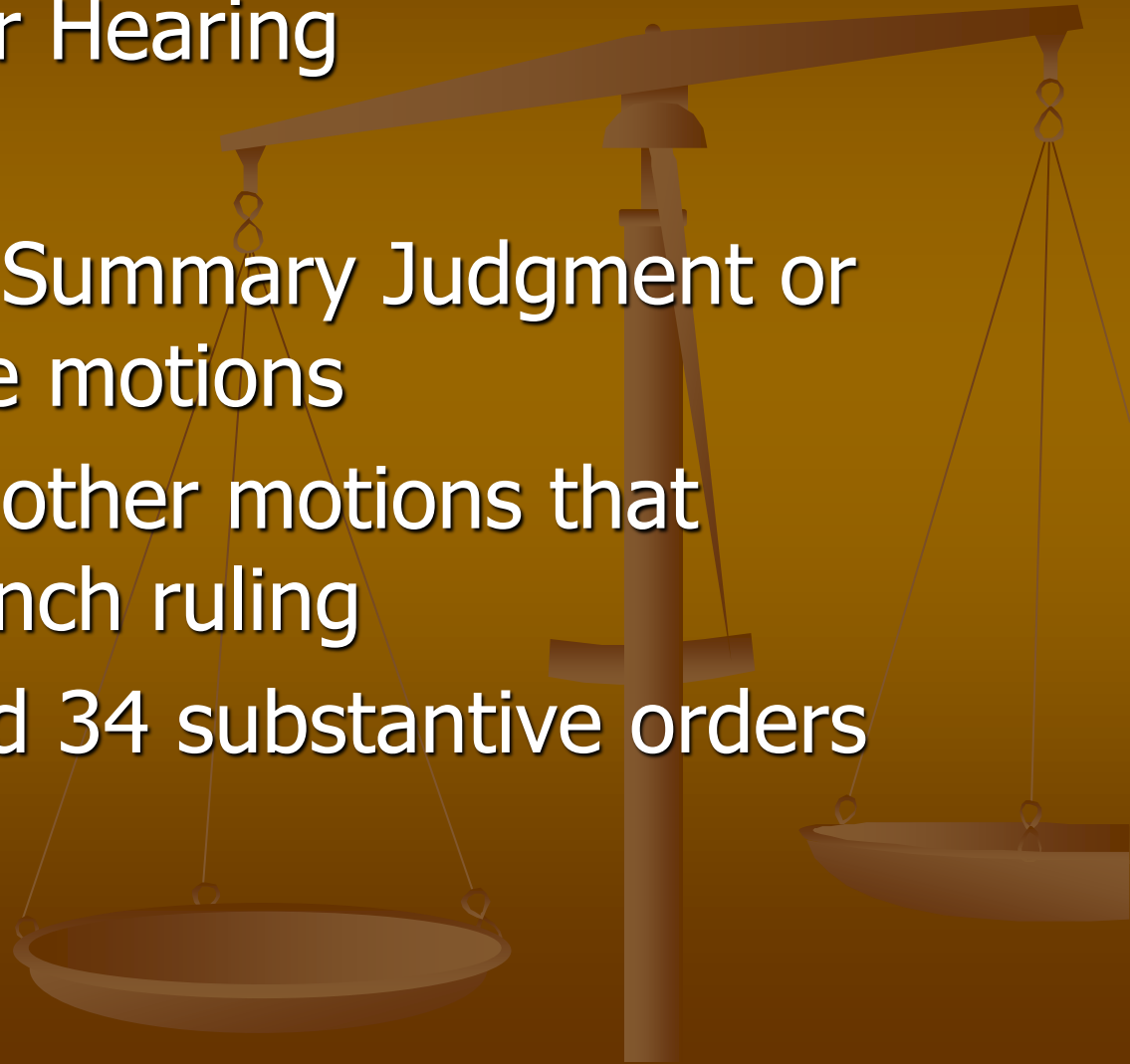
Workers' Compensation Court Discussion



David M. Sandler
Judge, Montana Workers'
Compensation Court

Summary of Court Statistics for Fiscal Year 2014

- 201 Petitions for Hearing
- 18 Trials
- 26 Hearings on Summary Judgment or other dispositive motions
- 17 Hearings on other motions that resulted in a bench ruling
- 28 decisions and 34 substantive orders



Case Load

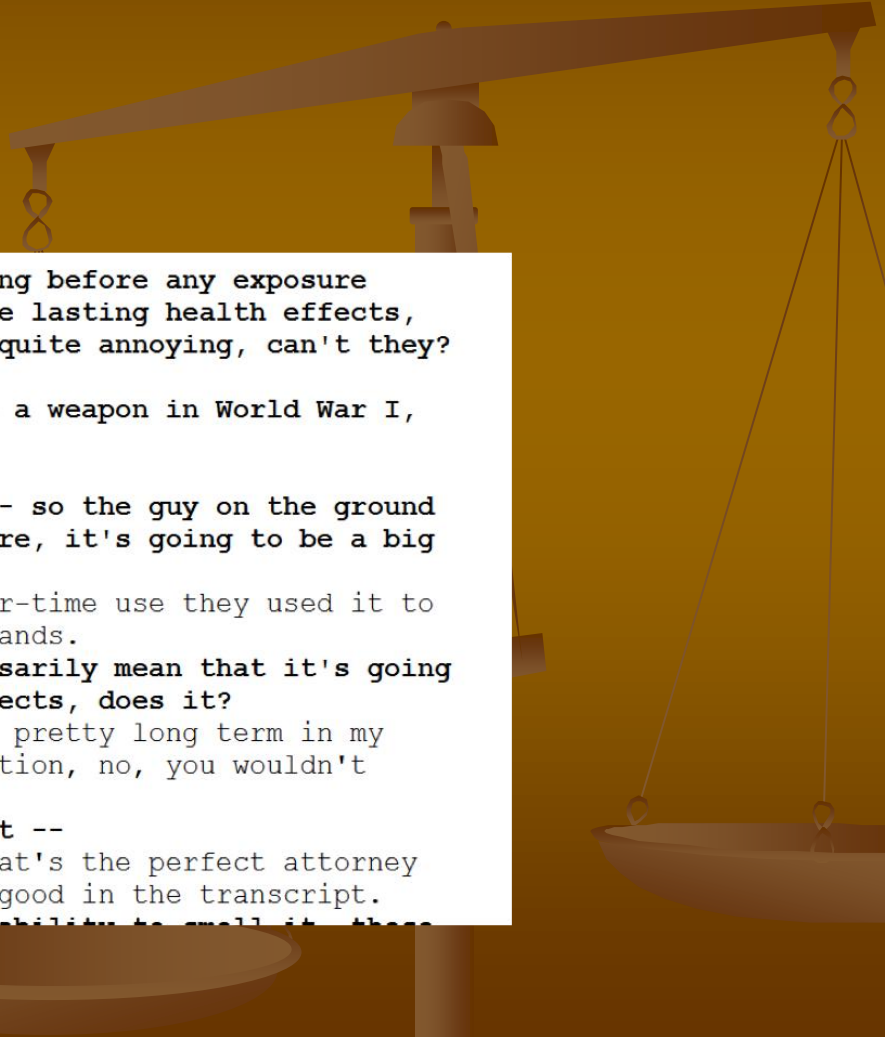
- More trials since March
- Trials are increasing
- Asbestos cases



Telephone and Deposition Testimony

- *Bonamarte v. Bonamarte*, 263 Mont. 170, 866 P.2d 1132 (1994)
- *But see State v. Megard*, 2004 MT 67, 320 Mont. 323, 87 P.3d 448
- *City of Missoula v. Duane*, 2015 MT 232, ____ Mont. ____, ____ P.3d ____ (August 11, 2015)
- *Weidow v. UEF*, 2010 MTWCC 2

Tone and demeanor are important . . .



22 Q. But my question is, long before any exposure
23 becoming great enough to cause lasting health effects,
24 the immediate effects can be quite annoying, can't they?
25 A. Yes.
75:1 Q. This stuff was used as a weapon in World War I,
2 wasn't it?
3 A. Yes.
4 Q. Yeah. And it can be -- so the guy on the ground
5 who is experiencing an exposure, it's going to be a big
6 deal to him?
7 A. Yeah, especially in war-time use they used it to
8 kill people. It killed thousands.
9 Q. But that doesn't necessarily mean that it's going
10 to cause long-term health effects, does it?
11 A. Well, I mean, death is pretty long term in my
12 book. But in a low concentration, no, you wouldn't
13 think that.
14 Q. The ability to smell it --
15 MR. JENNINGS: That's the perfect attorney
16 -- that one is going to look good in the transcript.
17 Q. (BY MR. JENNINGS) The ability to smell it, those

Rules Committee

- Kevin Braun
- Jim Edmiston
- Andy Adamek
- Stacey Tempel-St. John
- Joe Maynard
- Dave Lighthall
- Mark Cadwallader
- Jeff Smith
- Tom Murphy
- Larry Jones
- Kiel Duckworth



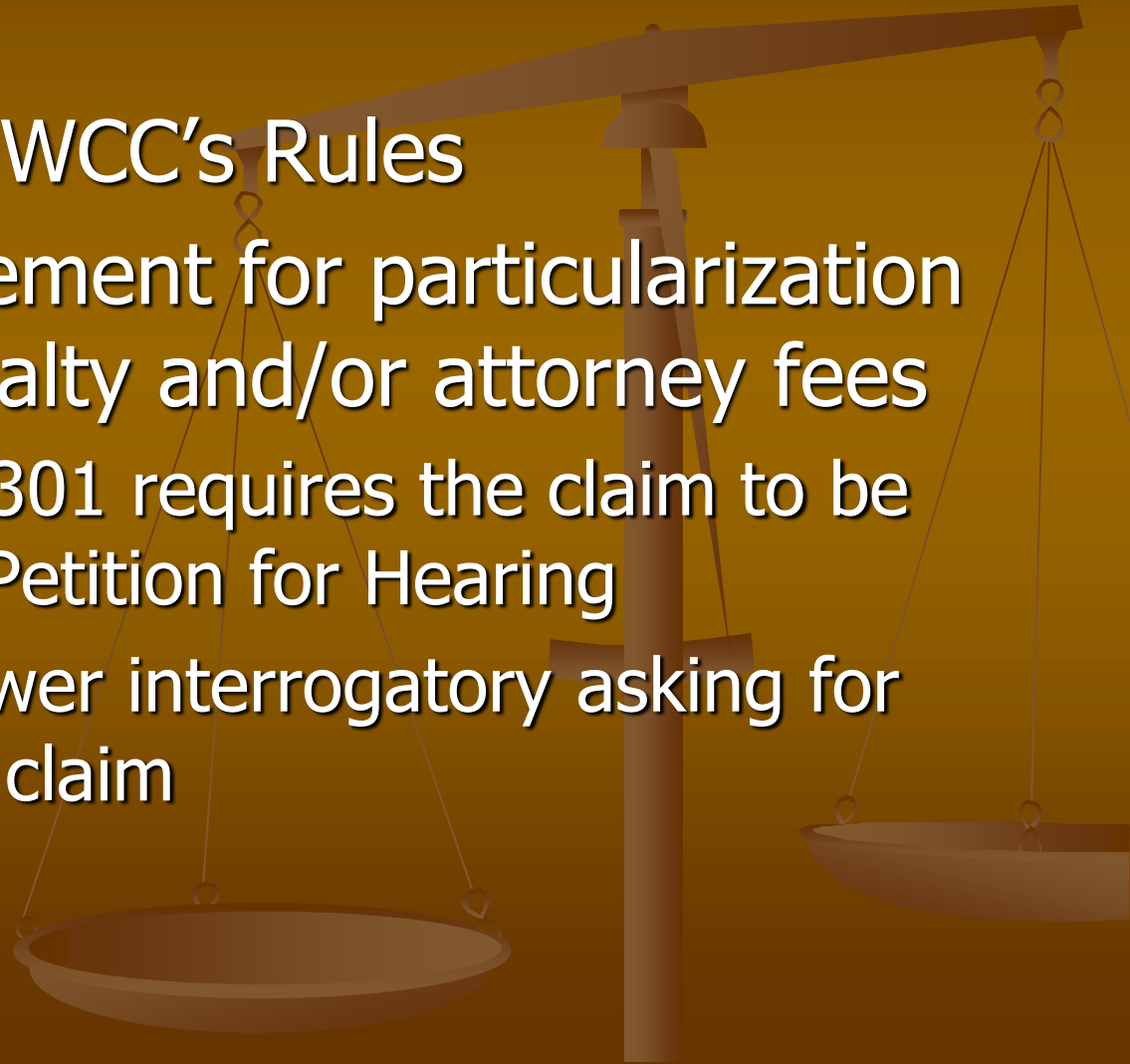
Rule Amendments

- Emergency Trials
- Settlement Conference
- Summary Judgment
- Motions for Reconsideration
- Status of Electronic Filing



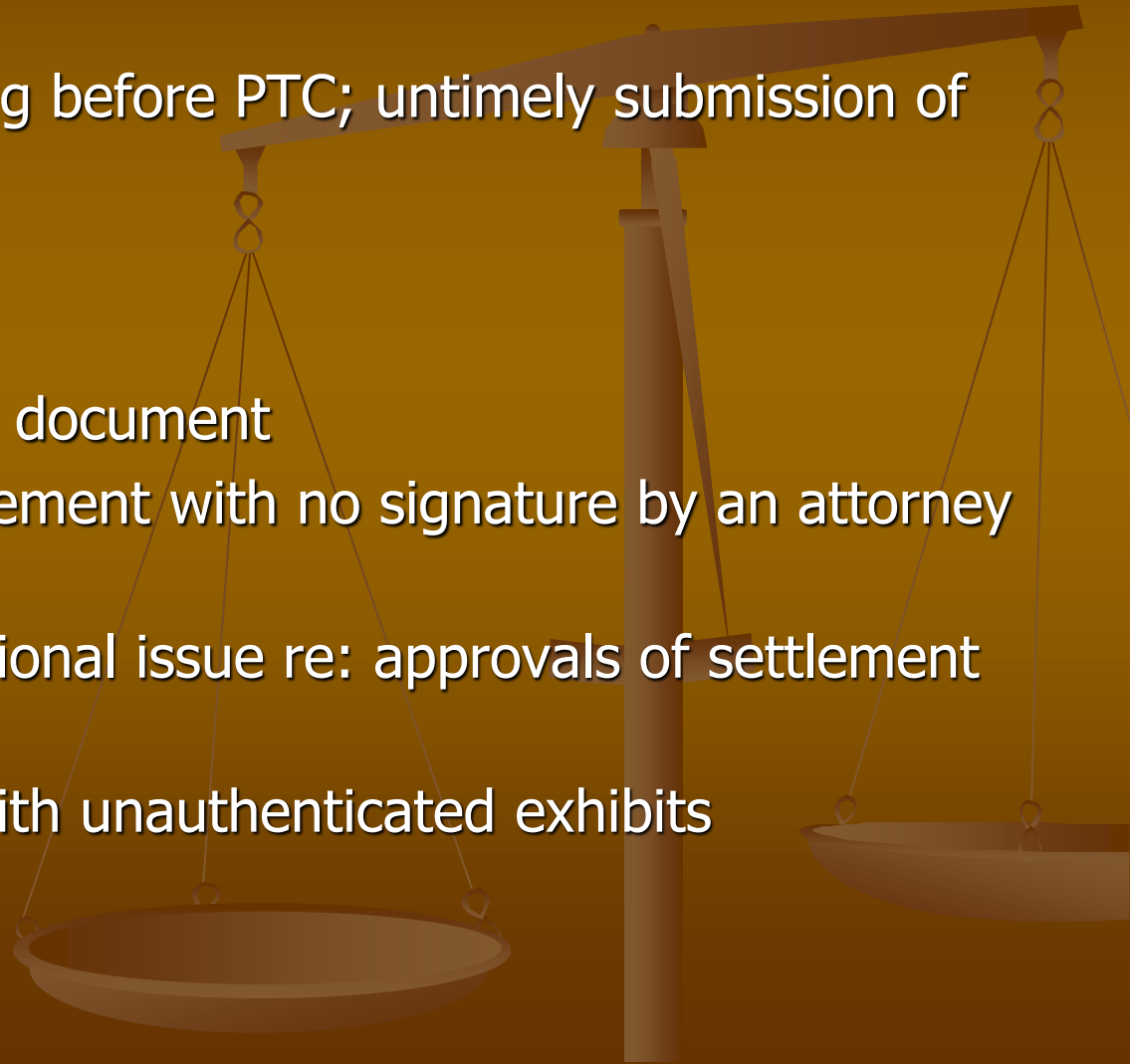
Scheduling Order

- Shorter
- Corresponds to WCC's Rules
- No more requirement for particularization of claim for penalty and/or attorney fees
 - But: ARM 24.5.301 requires the claim to be pleaded in the Petition for Hearing
 - And: Must answer interrogatory asking for factual basis of claim



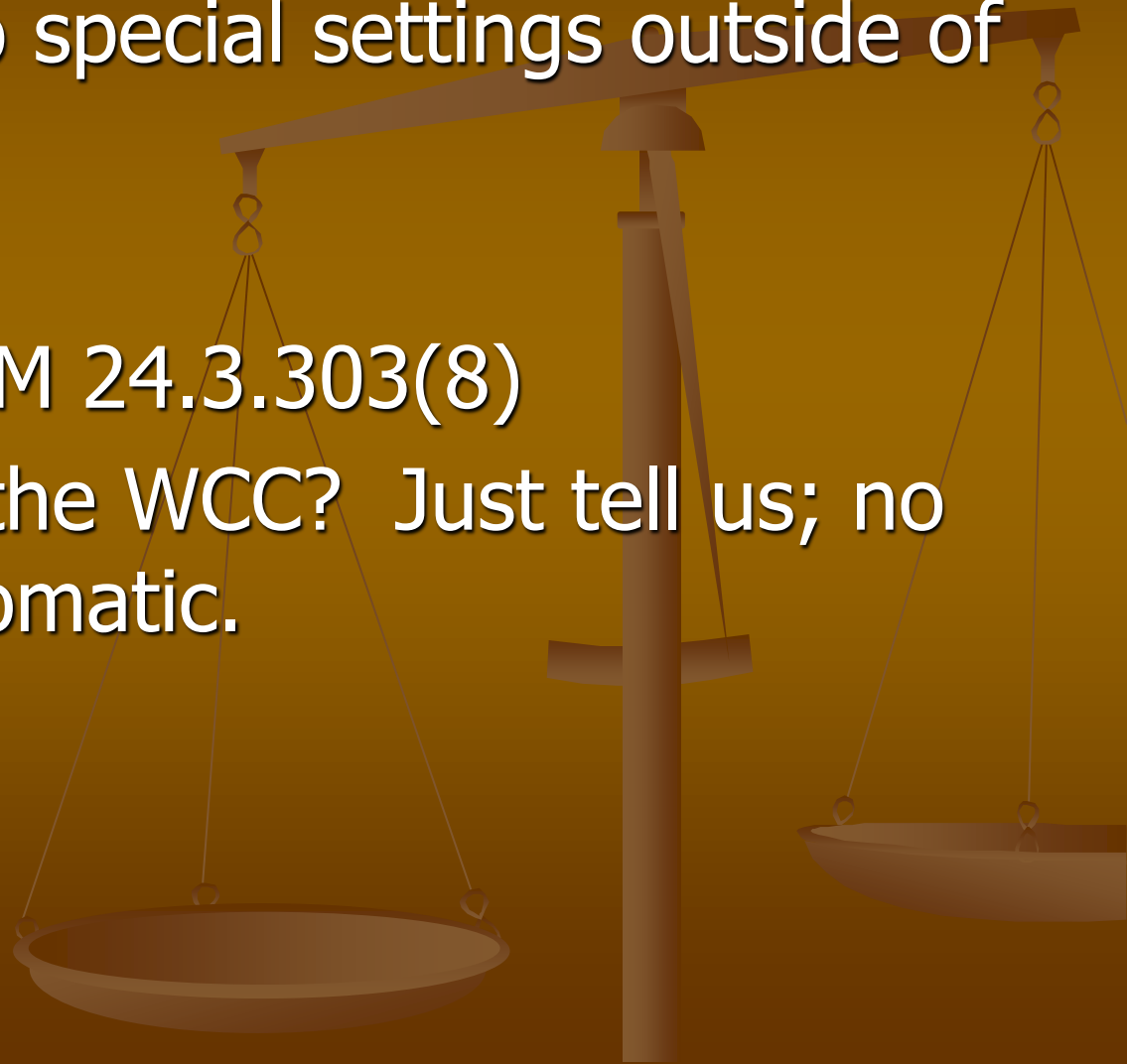
Frequent Problems

- Untimely Filings
- Attorneys not conferring before PTC; untimely submission of PTO
- “Combined” briefs
- Unnecessary Briefing
- Multiple filings of same document
- Joint Petitions for Settlement with no signature by an attorney for the insurer
- DLI has raised jurisdictional issue re: approvals of settlement with no mediation
- “Motions to Dismiss” with unauthenticated exhibits
- Captions



Practice pointers

- Court is open to special settings outside of Helena
- Depositions
- Make use of ARM 24.3.303(8)
- Suggestion for the WCC? Just tell us; no need to be diplomatic.



Questions?

